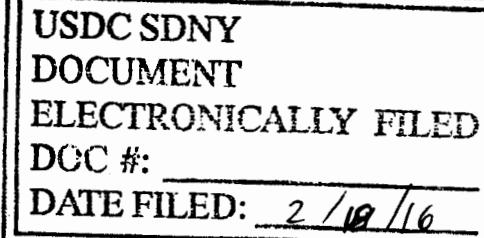


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDKIEY HURLEY, :



Plaintiff, : 15 Civ. 2785 (GBD) (HBP)

-against- : REPORT AND
RECOMMENDATION

TOZZER, LTD. d/b/a NIAGRA, :

Defendant. :

-----X

PITMAN, United States Magistrate Judge:

TO THE HONORABLE GEORGE B. DANIELS, United States
District Judge,

A conference having been held in this matter on February 9, 2016, during which defendant's motion to dismiss for (1) failure to respond to interrogatories and document requests pursuant to Fed.R.Civ.P. 37(d) and (2) failure to prosecute pursuant to Fed.R.Civ.P. 41(b) was discussed, after hearing from counsel for both parties, for the reasons stated on the record in open court, I respectfully recommend that defendant's motion to dismiss be denied.

Pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from receipt of this Report to file written

objections. See also Fed.R.Civ.P. 6(a). Such objections (and responses thereto) shall be filed with the Clerk of the Court, with courtesy copies delivered to the Chambers of the Honorable George B. Daniels, United States District Judge, 500 Pearl Street, Room 1310, New York, New York 10007, and to the Chambers of the undersigned, 500 Pearl Street, Room 750, New York, New York 10007. Any requests for an extension of time for filing objections must be directed to Judge Daniels. FAILURE TO OBJECT WITHIN FOURTEEN (14) DAYS WILL RESULT IN A WAIVER OF OBJECTIONS AND WILL PRECLUDE APPELLATE REVIEW. Thomas v. Arn, 474 U.S. 140, 155 (1985); United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988).

Dated: New York, New York
February 17, 2016

Respectfully submitted,



HENRY PITMAN
United States Magistrate Judge

Copies transmitted to:

All Counsel